

SECOND REGULAR SESSION

HOUSE BILL NO. 1298

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE TROUPE.

Pre-filed December 19, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3430L.011

AN ACT

To repeal sections 565.050, 565.060 and 565.070, RSMo, and to enact in lieu thereof three new sections relating to criminal assault, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 565.050, 565.060 and 565.070, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 565.050, 565.060 and 565.070, to read as follows:

565.050. 1. A person commits the crime of assault in the first degree if [he] **the person** attempts to kill or knowingly causes or attempts to cause serious physical injury to another person.

2. Assault in the first degree is a class B felony unless in the course thereof the actor inflicts serious physical injury on the victim in which case it is a class A felony.

3. No person who pleads guilty to or is found guilty of assault in the first degree shall receive a suspended imposition or execution of sentence, probation or a fine in lieu of a term of imprisonment if the assault was on a mass transit worker or passenger while on or waiting to board a bus or light rail system.

565.060. 1. A person commits the crime of assault in the second degree if [he] **the person:**

(1) Attempts to kill or knowingly causes or attempts to cause serious physical injury to another person under the influence of sudden passion arising out of adequate cause; or

(2) Attempts to cause or knowingly causes physical injury to another person by means of a deadly weapon or dangerous instrument; or

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

7 (3) Recklessly causes serious physical injury to another person; or

8 (4) While in an intoxicated condition or under the influence of controlled substances or
9 drugs, operates a motor vehicle in this state and, when so operating, acts with criminal
10 negligence to cause physical injury to any other person than himself; or

11 (5) Recklessly causes physical injury to another person by means of discharge of a
12 firearm.

13 2. The defendant shall have the burden of injecting the issue of influence of sudden
14 passion arising from adequate cause [under] **pursuant to** subdivision (1) of subsection 1 of this
15 section.

16 3. Assault in the second degree is a class C felony.

17 **4. No person who pleads guilty to or is found guilty of assault in the second degree**
18 **shall receive a suspended imposition or execution of sentence, probation or a fine in lieu**
19 **of a term of imprisonment if the assault was on a mass transit worker or passenger while**
20 **on or waiting to board a bus or light rail system.**

565.070. 1. A person commits the crime of assault in the third degree if:

2 (1) The person attempts to cause or recklessly causes physical injury to another person;
3 or

4 (2) With criminal negligence the person causes physical injury to another person by
5 means of a deadly weapon; or

6 (3) The person purposely places another person in apprehension of immediate physical
7 injury; or

8 (4) The person recklessly engages in conduct which creates a grave risk of death or
9 serious physical injury to another person; or

10 (5) The person knowingly causes physical contact with another person knowing the other
11 person will regard the contact as offensive or provocative; or

12 (6) The person knowingly causes physical contact with an incapacitated person, as
13 defined in section 475.010, RSMo, which a reasonable person, who is not incapacitated, would
14 consider offensive or provocative.

15 2. Except as provided in subsections 3 and 4 of this section, assault in the third degree
16 is a class A misdemeanor.

17 3. A person who violates the provisions of subdivision (3) or (5) of subsection 1 of this
18 section is guilty of a class C misdemeanor.

19 4. A person who has pled guilty to or been found guilty of the crime of assault in the
20 third degree more than two times against any family or household member as defined in section
21 455.010, RSMo, is guilty of a class D felony for the third or any subsequent commission of the
22 crime of assault in the third degree when a class A misdemeanor. The offenses described in this

23 subsection may be against the same family or household member or against different family or
24 household members.

25 **5. No person who pleads guilty to or is found guilty of assault in the third degree**
26 **shall receive a suspended imposition or execution of sentence, probation or a fine in lieu**
27 **of a term of imprisonment if the assault was on a mass transit worker or passenger while**
28 **on or waiting to board a bus or light rail system.**